IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

(1) S.B. CRIMINAL REVISION PETITION NO. 16/2007
VIRENDRA SINGH YADAV Vs. C.B.I.
&
(2) S.B. CRIMINAL REVISION PETITION NO. 17/2007
VIRENDRA SINGH YADAV Vs. C.B.I.

Date of order: 17.04.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. R.K. Jain for the accused-petitioners.
Mr. S.P. Tyagi, Special PP for CBI.

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In these two revision petitions the accused-petitioner has raised particular question of jurisdiction of the Court below to the extent of framing of charge against the accused-petitioner under Sections 5(1)(d) r/w 5(2) of the Prevention of Corruption Act, 1947 & 1988.

Learned counsel for the accused-petitioner submits that the petitioner raised this aspect but the same has not been dealt with by the Special Judge, CBI Cases, Jaipur. He referred the provisions of the Prevention of Corruption Act, 1988 and submits that this came into force w.e.f. 9th September, 1988 and the matter relates prior to September, 1988. Therefore, the matter can only be tried under the Prevention of Corruption Act, 1947 and as no notification has been issued to authorise the Special Judge to conduct the

case pertaining to the offence under the Prevention of Corruption Act, 1947 and has placed reliance on the judgment rendered by this Court in **S.B. Criminal Misc. Petition No. 124/96, dated 23.11.2000,** wherein since no notification of appointment as Special Judge has been produced by the respondents, therefore, the matter was remanded back to the Court below for fresh adjudication and after hearing the parties shall frame the charges again.

Having considered the provisions of the Prevention of Corruption Act, 1988 and the judgment referred by the learned counsel for the accused-petitioner, as the impugned order dated 25.09.2006 has been challenged by the accused-petitioner in these two revision petitions to the extent of charge framed under Section 5(1)(d) r/w 5(2) of the P.C. Act, the matter is remanded back to the Court below for fresh adjudication and shall pass fresh order in accordance with the provisions of law for framing charge under Section 5(1)(d) r/w 5(2) of the P.C. Act.

So far as other charges framed against the accused-petitioner by the Special Judge, CBI Cases, Jaipur vide its order dated 25.09.2006 for the offence under Sections 420, 467, 468, 471 IPC and Section 13(1)(d) r/w 13(2) of the P.C. Act is concerned, no interference whatsoever is required by this Court as

the charge under the aforesaid offences has rightly been framed by the Court below and to this extent, the impugned order dated 25.09.2006 is upheld.

But so far as charge framed against the accused-petitioner for the offence under Section 5(1)(d) r/w 5(2) of the P.C. Act is concerned, the impugned order dated 25.09.2006 is hereby quashed and set-aside and the matter is remitted back to the Court below for fresh adjudication as indicated herein above.

With these observations, both the revision petitions stand partly allowed.

(K.S. RATHORE),J.

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